HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO. 11088 OF 2006

DATED: 13.6.2006

Between:

Arigela Surya Kumari and others

… Petitioners

and

The District Collector, East Godavari

District, Kakinada and others

… Respondents

HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO.11088 OF 2006

ORAL ORDER:

The five petitioners are aggrieved by the draft land acquisition notification dated 26.5.2006 issued under Section 4 (1) of the Land Acquisition Act, 1894 (for short 'the Act') proposing acquisition of their lands in Nadipudi village, Amalapuram Mandal, East Godavari District for provision of house-sites to poor persons under the "Indiramma Scheme". Invoking the urgency clause under Section 17 (4) of the Act, the 1st respondent has dispensed with the enquiry under Section 5-A of the Act. The dispensing with the enquiry under Section 5-A of the Act is one of the grounds for challenging the notification.

It is seen that in almost all acquisition notifications in the State, urgency clause under Section 17 (4) of the Act is invoked and the salutary statutory provision of an enquiry after receipt of objections to the acquisition process, is being dispensed with as a matter of ritual without any rational application of mind. Provision of house-sites for the poor people is a regnant and recurring theme of any affirmative State. No justification is discernible for dispensing with the enquiry. The decision of the 1st respondent to dispense with the enquiry on invocation of the urgency clause under Section 17 (4) of the Act is arbitrary and perverse, beseeches invalidation.

Accordingly, the impugned draft notification dated 26.5.2006 issued under Section 4 (1) of the Act to the extent the urgency clause is invoked and enquiry under Section 5-A of the Act dispensed with, is declared illegal and unsustainable. The 1st respondent shall now issue a notice calling for objections if any to the acquisition process from the petitioners and other land owners whose properties are sought to be acquired under the notification, conduct an enquiry under Section 5-A of the Act after considering their

objections and communicate the decision on such enquiry to the petitioners simultaneously with the recommendations made by the acquiring authority, pursuant to the enquiry under Section 5-A of the Act.

The writ petition is disposed of at the stage of admission after hearing the learned counsel for the petitioners and the learned Government Pleader for Land Acquisition. The petitioners shall not be dispossessed pending communication of the orders pursuant to the enquiry under Section 5-A of the Act. No order as to costs.

GODA RAGHURAM, J

Date: 13.6.2006

CVM